

10 Rec'd PCT/PA

27 OCT 2004

PCT/EP2003/004454

PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Translation

Applicant's or agent's file reference A2002/00668	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/004454	International filing date (day/month/year) 29 April 2003 (29.04.2003)	Priority date (day/month/year) 30 April 2002 (30.04.2002)
International Patent Classification (IPC) or national classification and IPC B01L 3/00		
Applicant GREINER BIO - ONE GMBH		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>4</u> sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input checked="" type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 31 October 2003 (31.10.2003)	Date of completion of this report 23 August 2004 (23.08.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/004454

I. Basis of the report

1. This report has been drawn on the basis of (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

- ☐ the international application as originally filed.
- ☒ the description, pages 1-20, as originally filed,
 pages _____, filed with the demand,
 pages _____, filed with the letter of _____,
 pages _____, filed with the letter of _____.
- ☒ the claims, Nos. _____, as originally filed,
 Nos. _____, as amended under Article 19,
 Nos. _____, filed with the demand,
 Nos. 1-30, filed with the letter of 02 July 2004 (02.07.2004),
 Nos. _____, filed with the letter of _____.
- ☒ the drawings, sheets/fig 1/11-11/11, as originally filed,
 sheets/fig _____, filed with the demand,
 sheets/fig _____, filed with the letter of _____,
 sheets/fig _____, filed with the letter of _____.

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/004454

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☒ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☒ complied with.
- ☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☐ all parts.
- ☐ the parts relating to claims Nos. _____

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.
PCT/EP 03/04454

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-30	YES
	Claims		NO
Inventive step (IS)	Claims	1-30	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-30	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following documents:

D1: US-A-4 673 651 (BILLUPS JR JAMES O ET AL) 16 June 1987 (1987-06-16)

D2: CHAYEN N E ET AL: 'MICROBATCH CRYSTALLIZATION UNDER OIL - A NEW TECHNIQUE ALLOWING MANY SMALL-VOLUME CRYSTALLIZATION TRIALS' JOURNAL OF CRYSTAL GROWTH, NORTH-HOLLAND PUBLISHING CO. AMSTERDAM, NL, Vol. 122, No.1 / 4, 2 August 1992 (1992-08-02), pages 176-180, XP000306492 ISSN: 0022-0248.

1 The subject matter of claim 1 differs from the closest prior art, document D1 (see figure 6), in that a grid-shaped device for separating the volume into sections is disposed. The device solves the problem of minimizing any movement of a liquid to be introduced on top of the cells. Neither the problem nor the solution are suggested by document D1.

1.1 The covering of samples with oil in cells is known per se, although in the prior art (see, for example, document D2) the layering occurs separately in individual cells and the prior art offers no incentive to solve the basic problem of minimizing

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.
PCT/EP 03/04454

any movement of the liquid in containers of the kind in question.

- 1.2 The subject matter of claim 1 is therefore novel and inventive within the meaning of PCT Article 33.
- 2 Claims 2-28 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.
- 3 Claims 29 and 30 relate to the use of the novel and inventive device of claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.
- 4 It should be noted that claim 1 remains unclear because it does not further specify **where** in the container the grid is positioned - even though this is obvious from the figure and the description.